

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : Consolidated Under
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875
FILED :
SMIDDY :
OCT 16 2013 : Case No. 2:09-cv-74631
v. :
ALCOA, INC. :
MICHAEL E. KUNZ, Clerk :
By _____ Dep. Clerk :

O R D E R

AND NOW, this 15th day of October, 2013, it is hereby
ORDERED that the Motion to Dismiss for Failure to Comply with
Administrative Order No. 12 of Defendant ALCOA (ECF No. 82) is
GRANTED.¹ The case shall be marked CLOSED.

AND IT IS SO ORDERED.


EDUARDO C. ROBRENO, J.

¹ Due to the unique nature of the exposure in this case, the Court instructed Plaintiff on October 22, 2010, to submit a report that included and elaborated on the "causal nexus between all of the substances [Decedent] was exposed to, and her specific disease processes," and to provide support for her expert's conclusion that "[e]xposure to heavy metals and contaminants is a known and well documented cause of lung disease." See ECF No. 42. Plaintiff attempted to comply with the Court's Order on September 13, 2011. See ECF No. 68. The Court concluded that this report was insufficient to withstand a dispositive motion and required Plaintiff to submit a new report by January 30, 2013. See ECF No. 80. The latest report submitted by Plaintiff is nearly identical to the report submitted on September 13, 2011 which was deemed insufficient by this Court. The report does not comply with the Court's October 22, 2010 Order. Plaintiff has had three years in which to file a medical diagnosing report or opinion that could withstand a dispositive motion, pursuant to Administrative Order No. 12. Plaintiff has failed to do so.